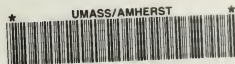


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**The Commonwealth of Massachusetts
State Ethics Commission**

GOVERNMENT DOCUMENTS
COLLECTION

John W. McCormack State Office Building, Room 619
One Ashburton Place, Boston 02108
Telephone (617) 727-0060



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**GUIDELINES FOR MUNICIPAL OFFICIALS
VOTING ON BUDGETS WHICH INCLUDE SALARIES FOR FAMILY MEMBERS**

Section 19 of the conflict of interest law prohibits a municipal official from participating in any particular matter which affects the financial interest of an immediate family member. Immediate family is defined in the conflict law as the employee and his or her spouse and their parents, children, brothers and sisters.

In situations where a municipal official's family member is employed by the same city or town, the official may not participate in any discussion or vote on any budget which would affect the family member's salary. The prohibition includes voting on a budget which will merely maintain the salary of a family member at its present level or approving "automatic" salary step increases in a budget. The prohibition applies even in cases where a number of other employees are given similar increases.

1. A 1976 Supreme Judicial court decision, *Graham v. McGrail*, provided the basis for the following guidelines for public officials when faced with this conflict.

The municipal official must always abstain from voting on budget items which affect an immediate family member's financial interest.

Not only must the official abstain from voting, he or she may not participate in any official discussion of the matter. The court advised that the best course of action is simply to leave the room during the deliberation and vote of the board.

A public official may vote on the whole budget, including salaries, once the following procedure has been followed: the board must identify the budget line item which includes the family member's salary and vote on it separately. The official whose family member's salary is affected by this line item must abstain from the discussion and vote. After all such conflicts are dealt with through this line item procedure, the board may then vote on the budget as a whole package, with all members participating in the final vote to approve the "bottom line."

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Example: A school committee member whose father works as a custodian for the school department must abstain from voting on the line item of the budget which includes his salary. She appropriately leaves the room during any deliberation and vote on this matter. She may vote on any other line item. She may also participate in the final vote to approve the budget as a whole at the end of this process.

2. Under Prop 2 1/2, city councils and boards of aldermen have the power to vote on the "bottom line" school department budget, but not on specific line items. Because of this, if a conflict arises, the city councillor or alderman may not take advantage of the line item procedure described above; however, there is an alternative. The Commission has ruled that city councillors and aldermen with family members working for the school department may vote on the bottom line school department budget, but they may not discuss or make nonbinding recommendations on the budget line items which affect their family members' salaries.

If there is a substantial amount of controversy over the school department budget, city councillors and aldermen may have to abstain even from voting on the consolidated budget. Officials should consult the Commission for specific advice if a controversial vote is at stake.

3. Elected town meeting members are exempt from the conflict of interest law. Town meeting members may vote on any line item or consolidated budget -- whether or not their family members' salaries are affected. The same is true for citizens who attend the town meeting in communities which have the "open" town meeting form of government. Town meeting members who hold municipal positions in the community may vote on their municipal agency's budget, including salary line items which may affect family members.

A somewhat difficult situation arises when a municipal official acts in his or her official capacity at town meeting in presenting a budget, recommending a change or defending a budget line item which affects the financial interest of a family member. If this situation comes up, we urge municipal officials to contact us for advice prior to town meeting.

Example: A finance committee member is also a town meeting member. The finance committee member is acting in his official capacity as a municipal employee at a town meeting when he presents the budget and answers questions about the budget. If his son works for the police department, a question arises as to whether he may participate in discussing the salary line item of the police department's budget at town meeting because it affects the financial interest of his son. He needs to get specific advice on this. The finance committee member, because he is also a

town meeting member, may vote on the police department's budget including any salary line items which may affect his son's salary.

4. An exemption is available for appointed municipal employees which will allow them to act on a budget affecting an immediate family member's financial interest. They must receive permission to participate from the person or board which appointed them to their job (the appointing official). To receive this permission, the employee must first advise his or her appointing official in writing of the conflict. If the appointing official decides to allow the employee to participate, the determination must be made in writing, in advance of any action, that the financial interest of the employee's family member "is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee."

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Any questions concerning these guidelines should be directed to the Legal Division of the State Ethics Commission.

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